

## EXHIBIT 1

### A BILL

#### PREFATORY EXPLANATION

In the attached exhibit the Committee has put in the form of proposed legislation those of its principal recommendations for improvement in the administrative process which it believes susceptible of legislative treatment. Three members of the Committee recommend a much more elaborate effort in the form of a "Code of Standards of Fair Administrative Procedure." In brief space it is impossible to analyze in detail each section of the proposed code appended to the separate statement below. The majority of the Committee therefore explains broadly why it has not joined in recommending its adoption.

To the majority the idea of a code complete and rounded was attractive when proposed. In order that the proposal might be fully examined, the Committee has materially delayed its final report. As its consideration proceeded, the majority became convinced that much of the code was unrelated to facts of more than isolated incidence and that many of its sections were inapplicable as a practical matter to many agencies. They also became convinced that the attempt to apply certain of its provisions to the new scheme of hearing commissioners was impossible at the present time, since it could not be known in advance precisely what collateral changes, as a practical matter, that scheme would produce.

It has been urged upon the Committee that an important function of the code is to serve as a guide to administrators. The majority, however, believe that this function is better performed by the report itself, which was drafted with the intent that it should serve as a guide to administrative officials. For, when principles of the kind which are stated in the report are translated into legislative form, one of two results will almost certainly occur. First, if the provisions are to retain the necessary flexibility, they become merely hortatory. They appear to prescribe a uniform procedure and to erect standards; but, in fact and in application, they dissolve and permit whatever in the opinion of the administrator is practicable and necessary. The provisions of the code relating to rule-making procedure furnish an illustration of this. The code provides "without limiting the adoption of any other procedures" that "agencies are authorized to utilize in situations deemed appropriate by them any one or more of" described types of procedures—all of which now may be and are used.

Or the code commands the obvious, in situations where disobedience of the command will, without the code, vitiate administrative action. This is so of such provisions as that which announce that "investigative powers or means of any agency shall be exercised only

by the authorized representatives of such agency and for its authorized purposes." The majority does not believe that legislation is useful which says either "do as you please" or "do nothing which is lawless."

The second result of a code, in the absence of exhaustive study, is to catch far more than is intended whenever the sections do more than exhort, and lay down specific requirements. Their impact thus may be harmful and surely is unpredictable. The present code, for example, requires "formal adjudication" in cases before the Federal Reserve System, the effect of which upon the exercise of its licensing powers the majority cannot foresee. It has been impossible to review the possible consequences of its many provisions upon the whole field of the administrative process. In the view of the majority this difficulty is not solved by the provisions of the code which vests the President with power to suspend the operation of any part of the code "as to any type of function or proceeding of any agency whenever he finds it impracticable or unworkable." On the contrary, the fact that it is necessary to designate the President to make findings, which none of the Committee members is now prepared to make, concerning the application of the code underscores the reason for the majority's reluctance to join in urging the enactment of the code. To do so seems to the majority to subject the solid advances in procedural reform which are now possible to competing pressures for exemption and extensions.

In this state of the problem, it has seemed to a majority of the Committee the part of wisdom to be content at this time with the several major steps already proposed. Experience with the operation of the new proposals, and further study by Congress, the agencies, and the suggested Office of Federal Administrative Procedure, are needed before the attempt can safely be made to prescribe by statute for a greater uniformity either of principle or of practice.

#### A BILL

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### TITLE I. GENERAL PROVISIONS AND OFFICE OF FEDERAL ADMINISTRATIVE PROCEDURE

SECTION 1. *Declaration of General Policy.*—The exercise of all administrative powers, insofar as they affect private rights, privileges, or immunities, should be effected by established procedures designed to assure the adequate protection of private interests and to effectuate the declared policies of Congress. While procedures should be adapted to the necessities and differences of legislation and of the subject matter involved, they should in any event be made known to all interested persons. Administrative adjudication should be attended by procedures which assure due notice, adequate opportunity to present and meet evidence and argument, and prompt decision.

SEC. 2. *Definitions.*—As used in this act—(a) "Agency" means any department, board, commission, authority, corporation, administration, independent establishment, or other subdivision of the executive branch of the Government of the United States which is empowered

by law to determine the rights, duties, immunities, or privileges of persons, other than persons in their capacity as employees of the United States, by the making of rules and regulations or by adjudications which are unreviewable except by the courts. Where the context warrants, "agency" means more particularly the officer or group of officers within an agency as above defined who are not subordinate or responsible to any other officer therein.

(b) "Agency tribunal" means the officer or group of officers within an agency whose decisions in adjudication are unreviewable except by the courts.

SEC. 3. *Delegation of Authority.*—(a) Subject to such supervision, direction, review, or reconsideration as it may prescribe, every agency or agency tribunal is authorized to delegate to its responsible members, officers, employees, committees, or administrative boards power to manage its internal affairs; to dispose informally of requests, complaints, applications, and cases; to issue complaints, show-cause orders, or other moving papers; and to govern matters of preliminary, initial, intermediate, or ancillary procedure.

(b) Every agency tribunal having more than a single member may delegate to one or more of its members, subject to review or reconsideration by it, the power to decide cases after hearing or on appeal.

(c) Where the ultimate authority in any agency is vested in a single individual, he may delegate any of his powers of final adjudication to one or more agency tribunals with such membership as he may prescribe.

SEC. 4. *Right to counsel.*—Every person appearing or summoned in any administrative proceeding shall be allowed the assistance of counsel.

SEC. 5. *Office of Federal Administrative Procedure.*—(1) There shall be appointed by the President, by and with the advice of the Senate, an officer to be known as the Director of Federal Administrative Procedure (hereafter referred to as the Director), who shall hold office for the term of seven years or until a successor has been appointed, and shall receive an annual salary of \$10,000.

(2) There shall be at the seat of government an establishment to be known as the Office of Federal Administrative Procedure composed of the Director, a Justice of the United States Court of Appeals for the District of Columbia designated by its Chief Justice, and the Director of the Administrative Office of the United States Courts, who shall serve without extra compensation.

(3) The Director shall have authority to appoint, without regard for the provisions of the Civil Service laws, an executive secretary and such attorneys, investigators, and experts as are deemed necessary to perform the functions and duties vested in the Director and Office of Federal Administrative Procedure, and he shall fix their compensation according to the Classification Act of 1923, as amended. The Director shall appoint such other employees with regard to existing laws applicable to the appointment and compensation of officers and employees of the United States, as he may from time to time find necessary.

SEC. 6. *Advisory Committees.*—(1) The Director shall designate from time to time, as occasion requires, the administrative establishments of the United States which are agencies within the meaning of this Act.

**TITLE II—ADMINISTRATIVE RULE-MAKING**

SEC. 201. *Rules and other information required to be published.*—

(1) *Internal organization and structure.*—Every agency shall promptly make available and currently maintain a statement of its internal organization, insofar as it may affect the public in its dealings with the agency, specifying (a) its officers and types of personnel; (b) its subdivisions; and (c) the places of business or operation, duties, functions, and general authority or jurisdiction of each of the foregoing.

(2) *Publication of policies, interpretations, and rules.*—All general policies and interpretations of law, where they have been adopted; rules, regulations, and procedures, whether formal or informal; prescribed forms and instructions with respect to reports or other material required to be filed shall be made available to the public.

SEC. 202. *Formulation of rules.*—Every agency shall designate one or more units, committees, boards, officers, or employees to receive suggestions and expedite the making, amendment, or revision of rules, subject to the control and supervision of the agency.

SEC. 203. *Effective date of rules.*—No regulation hereafter promulgated by an agency shall take effect until 45 days after the date of its initial publication in the Federal Register unless the regulation or the statute by authority of which it is promulgated provides a longer period; but this limitation upon the time when a regulation takes effect may be reduced or eliminated by certification of the agency, published with the regulation in the Federal Register, that stated circumstances require the effective date to be advanced as specified.

SEC. 204. *Formal requests for regulations.*—Any person may file with an agency a petition requesting the promulgation or amendment of a rule in which the petitioner has an interest. Such petition shall be submitted in such form and with such content as may be prescribed by each agency.

SEC. 205. *Reports to Congress.*—Annually, in its report to Congress or otherwise, each agency shall transmit all rules promulgated by it during the preceding 12 months, together with such explanatory material relating to substance or procedure as may be appropriate. The agency shall also include a summary of formal requests with respect to regulations received by it pursuant to section 204 of this title since its last report, and the reasons for its refusal of such of these requests as may have been refused.

SEC. 206. *Time of taking effect.*—This title shall take effect 30 days after the date of enactment of this act.

**TITLE III—ADMINISTRATIVE ADJUDICATION**

SECTION 301. *Application of title.*—The provisions of sections 302 to 309, inclusive, of this title shall be applicable only to proceedings wherein rights, duties, or other legal relations are required by law to be determined after opportunity for hearing, and, if a hearing be held, only upon the basis of a record made in the course of such hearing. They shall not apply to—

(a) Proceedings in which a hearing for the purpose of receiving evidence is held before the agency tribunal, or before one or more individual members of an agency tribunal; or

(b) Proceedings which, pursuant to a law of the United States, are conducted before an officer of one of the States; or

(c) Proceedings which precede the issuance of a rule, regulation, or order involving the future governance or control of persons not required by law to be parties to the proceedings; or

(d) Matters concerning the conduct of the military or naval establishments, or the selection or procurement of men or materials for the armed forces of the United States; or

(e) The selection, appointment, promotion, dismissal, discipline, or retirement of an employee or officer of the United States, other than a hearing commissioner as provided hereinafter in this title; or

(f) Matters relating to the patent or trade-mark laws.

SEC. 302. *Appointment and removal of hearing commissioners.*—

(1) *Hearing commissioners.*—In each agency entrusted with the duty of deciding cases, there shall be appointed such number of officers to be known as hearing commissioners as the agency may from time to time find necessary for the proper hearing of cases. In any agency in which five or more hearing commissioners have been appointed, one of their number shall be designated by the agency as the chief hearing commissioner.

(2) *Salaries.*—The salary of a hearing commissioner shall be \$7,500 per annum and of a chief hearing commissioner, \$8,500 per annum, and shall be paid from appropriations for salaries and contingent expenses of the agencies to which they may be appointed; but if the Director of Federal Administrative Procedure shall certify, upon application of an agency, that certain of the cases coming before that agency are of an uncomplicated character, it shall be permissible to fix the salaries of hearing commissioners assigned to such cases at \$5,000 per annum, and such hearing commissioners shall be assigned to no other types of cases.

(3) *Selection and appointment.*—A hearing commissioner may be selected and appointed without regard for the provisions of the civil service or other laws applicable to the employment and compensation of officers and employees of the United States. He shall be nominated by the agency, and shall be appointed by the Office of Federal Administrative Procedure if that office finds him to be qualified by training, experience, and character to discharge the responsibilities of the position. The Director is authorized and instructed to make such investigations as may be necessary in order to enable the office to pass upon the qualifications of nominees.

(4) *Basis of nominations.*—In the nomination or appointment of hearing commissioners no political test or qualification shall be permitted or given consideration, but all nominations and appointments shall be made on the basis of merit and efficiency alone.

(5) *Term of office.*—Each hearing commissioner shall be appointed for the term of 7 years, and shall be removable, within that period, only (a) Upon charges, first submitted to him, by the agency that he has been guilty of malfeasance in office or has been neglectful or inefficient in the performance of duty; or

(b) Upon charges of like effect, first submitted to him, by the Attorney General of the United States, which the Attorney General is authorized to make in his discretion after investigation of any complaint against a hearing commissioner made to him by a person other than the agency; or

(c) Upon certification by the Director, after application by the agency, that lack of official business or insufficiency of appropriations renders necessary the termination of the hearing commissioner's appointment.

(6) *Removal.*—(a) If removal of a hearing commissioner is sought on stated charges, he may within 5 days after service of such charges demand a hearing upon them before the Office of Federal Administrative Procedure; or, if it so directs, before a trial board consisting of the Director and two other individuals designated by the Office. The decision of the office or the trial board shall be accompanied by findings of fact based upon a record of the hearing, and shall not be subject to review in any other forum.

Pending determination of the trial, a hearing commissioner against whom charges have been brought shall be suspended from office. If the Office or trial board concludes that cause for removal has been shown, the hearing commissioner shall be deemed to have been removed from office as of the date when the charges were served upon him. But if it be concluded that no cause for removal has been shown, the hearing commissioner shall at once be restored unless his term of office has expired, and he shall be paid the salary which would have accrued to him but for the suspension.

(b) If removal of a hearing commissioner is upon certification as provided in paragraph 5, subsection (c), of this section, a hearing commissioner so removed shall be placed upon an eligible list for reappointment, and he shall remain upon the list, if he so desires, for the balance of his term of office; and during that period no new appointments of hearing commissioners shall be made in the agency by which he has been employed except from among persons whose names appear on such list.

(7) *Provisional appointment.*—A hearing commissioner may be appointed in the manner provided in paragraphs (3) and (4) of this section for a provisional period not to exceed 1 year. At the conclusion of the provisional period he shall either be appointed for a full term of 7 years or be relieved from further employment as a hearing commissioner in the agency of which he has been a part. During the provisional period he may be removed solely within the discretion of the agency.

(8) *Temporary appointment.*—Without reference to the provisions of this section relative to the compensation or tenure of hearing commissioners, the agency may with the approval of the Director designate and assign a temporary commissioner for the purpose of hearing a particular case or, alternatively, for a period not in excess of 30 days, when either (a) the volume of cases arising within the agency is so inconsiderable that appointment of a hearing commissioner is not justified; or

(b) Because of vacancy in the office of hearing commissioner, insufficiency of available personnel, or other temporary cause the as-

signment of one or more temporary hearing commissioners is required to permit the expeditious disposition of cases which await hearing or decision.

The assignment of a temporary hearing commissioner may be extended and renewed from time to time for additional periods upon certification, as provided in section 305 of this act, that the need for such assignment has not terminated and that the public interest will be served by its renewal.

In designating temporary hearing commissioners, an agency shall so far as feasible utilize the services of a hearing commissioner attached to another agency, if the consent of that agency is obtained. The salaries of hearing commissioners temporarily assigned from one agency to another shall, during the assignment, be paid by the agency to which they are assigned.

(9) *Powers of provisional and temporary hearing commissioners.*—Provisional and temporary hearing commissioners shall have the powers and perform the duties of hearing commissioners.

SEC. 303. *Hearing of cases.*—(1) *Hearing before hearing commissioner.*—Subject to the provisions of this section, every case not within the exceptions stated in section 301 of this act shall be heard before one or more hearing commissioners.

(2) *When no hearing required.*—No case in which the facts are agreed need be presented for hearing before or consideration by a hearing commissioner if the agency tribunal otherwise directs.

(3) *Defaults.*—Notwithstanding the provisions of other acts, no agency shall be required to hold hearings when the parties in interest have failed to answer, if so required, a complaint or other process of like effect duly served upon them, or to appear when notified.

SEC. 304. *Powers and duties of hearing commissioner.*—(1) *Powers at hearing.*—A hearing commissioner shall have power—

(a) To administer oaths and affirmations, and take affidavits;

(b) To issue subpoenas requiring the attendance and testimony of witnesses and the production of books, contracts, papers, documents, and other evidence;

(c) To examine witnesses and receive evidence;

(d) To cause testimony to be taken by deposition;

(e) To regulate all proceedings in every hearing before him and, subject to the established rules and regulations of the agency tribunal, to do all acts and take all measures necessary for the efficient conduct of the hearing;

(f) To exclude evidence which is immaterial, irrelevant, unduly repetitious, or not of the sort upon which responsible persons are accustomed to rely in serious affairs.

(2) *Disobedience of lawful order.*—If any person in proceedings before a hearing commissioner disobeys or resists any lawful order or process, or refuses to appear after having been subpoenaed, or upon appearing refuses to take the oath or affirmation as a witness, or thereafter refuses to be examined according to law, the agency of which the hearing commissioner is an officer shall certify the facts to the district court having jurisdiction, which shall thereupon promptly hear the evidence as to the acts complained of, and, if the evidence so warrants, order compliance or punish such person in the same manner and to the same extent as for contempt of the court.

(3) *Prehearing conferences.*—In cases referred to him for that purpose, a hearing commissioner shall have power to initiate, conduct, or participate in prehearing proceedings looking toward informal settlement or other disposition of matters in controversy; and he shall have power to direct the parties or their representatives to appear before him for a conference to consider—

- (a) The simplification of the issues;
- (b) The necessity or desirability of amendments to the pleadings;
- (c) The possibility of obtaining stipulations of fact and of documents which will avoid unnecessary proof;
- (d) The limitation of the number of expert witnesses;
- (e) Such other matters as may aid in the disposition of the case.

(4) *Hearing commissioner's decision.*—Except as otherwise provided in this act, when the evidence has been heard by a hearing commissioner opportunity shall be given to the parties in interest to request findings of fact and conclusions of law, and to file briefs or argue orally in accordance with the procedure prescribed by the rules of the agency. The hearing commissioner shall find the facts, formulate the conclusions of law, and enter a decision in the case. Such findings, conclusions, and decision shall be stated in writing, served upon all parties in interest, reported to the agency tribunal, and become part of the record; but in any case wherein he deems it appropriate to do so, the hearing commissioner may announce his decision orally on the record, and shall be required to state his findings, conclusions, and decision more fully and in written form only if requested to do so by a party or by the agency tribunal.

SECTION 305. *Powers and duties of chief hearing commissioner.*—

(1) *Power to hear cases.*—A chief hearing commissioner shall have the powers and duties conferred on hearing commissioners by Section 304 of this act.

(2) *Other powers and duties.*—It shall be the duty of the chief hearing commissioner of an agency to—

- (a) Assign hearing commissioners to cases;
- (b) Certify to the agency that the accumulation or urgency of cases awaiting hearing or decision is such as to require the designation of one or more temporary hearing commissioners, for the purpose of hearing a named case or such cases within a period of not to exceed thirty days as may be assigned;

(c) Certify to the agency that the public interest requires the extension of the designation of a temporary hearing commissioner for such further period, not to exceed thirty days, as may be stated by him, subject to the possibility of subsequent additional extension upon his further certification of continuing necessity;

(d) Assign another hearing commissioner to a case in which the hearing commissioner originally assigned is unable to complete the hearing;

(e) Direct that the findings of fact, conclusions, and decision in any case be prepared and issued by a hearing commissioner other than the one who presided at the hearing if the latter by reason of death, illness, removal from office, termination of appointment, or unforeseen exigency is unable to prepare the same within a reasonable time; provided, however, that the hearing commissioner to whom such assignment is made may order such reargument or retrial as he may deem necessary to a just decision.



(3) *Agencies where no chief hearing commissioner.*—In an agency which has no chief hearing commissioner, the powers and duties assigned to the chief hearing commissioner by paragraph (2) of this section and by Section 306 of this act shall be exercised by the agency tribunal or by an official of the agency designated for that purpose by the agency tribunal.

SECTION 306. *Disqualification of a hearing commissioner.*—Any party may file with the chief hearing commissioner a timely affidavit of disqualification of any hearing commissioner assigned to hear any case, setting forth with particularity the grounds of alleged disqualification. After such hearing or investigation as the chief hearing commissioner may deem proper, he shall promptly either find the affidavit without merit and direct the case to proceed as assigned or else assign another hearing commissioner to the case. Where such an affidavit is found to be without merit, the affidavit, any record made thereon, and the memorandum decision and order of the chief hearing commissioner shall be made a part of the record. A hearing commissioner shall withdraw from any case in respect of which he deems himself disqualified for any reason.

SECTION 307. *Cases when no decision by hearing commissioner required.*—(1) *Certification of existence of novel or complex questions.* Upon the conclusion of the hearing in any case the hearing commissioner may certify to the agency tribunal any questions or propositions of law concerning which instructions are desired for the proper decision of the case. Thereupon the agency tribunal may either give binding instructions on the questions and propositions certified or may require that the entire record in the case be transmitted to it for consideration and decision.

(2) *Transfer of case on petition.* Upon the conclusion of the hearing in any case the agency tribunal, on petition of any private party therein and for good cause shown, may direct that the entire record in the case be forthwith transmitted to it for consideration and decision.

(3) *Opportunity to present argument.* In any case brought before an agency tribunal pursuant to this section, the parties shall be afforded opportunity to request findings of fact and conclusions of law, and to file briefs or argue orally before the agency tribunal.

SECTION 308. *Effect of decision of hearing commissioner.*—(1) *Finality when no appeal taken or review ordered.* In the absence of timely appeal to the agency tribunal, a decision of a hearing commissioner shall without further proceedings become the final decision of the agency tribunal, and as such enforceable or reviewable to the same extent and in the same manner as though it had been duly entered by the agency tribunal as its decision, judgment, order, award, or other ultimate determination in the case; except that the agency head may on its own motion direct that a decision of a hearing commissioner be reviewed by it after notice to the parties and within such period of time and in accordance with such rules as it may prescribe.

(2) *Reopening of hearing commissioner's decision.*—To the same extent and in the same manner as may be permissible in respect of its own final decision, the agency tribunal may reopen and alter, modify, or set aside in whole or in part any decision of a hearing commissioner

which has been unappealed and which has become final by operation of time.

SECTION 309. *Review of hearing commissioner's decision by agency tribunal.*—(1) *Assignment of errors on appeal.*—When an appeal is taken to the agency tribunal from the decision of a hearing commissioner, the appellant shall set forth with particularity each error asserted, and only such questions as are specified by the appellant's petition for review and such portions of the record as are specified in the supporting brief need be considered by the agency. Where the appellant asserts that the hearing commissioner's findings of fact are against the weight of the evidence, the agency may limit its consideration of this ground of appeal to the inquiry whether the portions of the record cited disclose that the findings are clearly against the weight of the evidence.

(2) *Powers of agency tribunal on appeal.*—Upon the review of any case the agency tribunal shall afford parties reasonable opportunity for submitting argument. The agency tribunal shall have jurisdiction to remand the case to the hearing commissioner for the purpose of receiving further evidence or making additional findings, or to affirm, reverse, modify, or set aside in whole or in part the decision of the hearing commissioner, or itself to make any finding which in its judgment is proper upon the record. But if its findings differ materially from those of the hearing commissioner, the agency tribunal shall file with its decision a statement explaining the grounds of its determinations, with appropriate references to the record.

SECTION 310. *Record on appeal to courts.*—In any proceeding for judicial review, restraint, or enforcement of an administrative order or other determination, it shall not be necessary to print the complete record and exhibits in the case unless the court so orders. The moving party shall print as a supplement or appendix to his brief (which may be separately bound) the pertinent pleadings, orders, decisions, opinions, findings, and conclusions of both the agency tribunal and the hearing commissioner, together with relevant docket entries arranged chronologically and such other relevant portions of the record as it is desired that the court shall read. Omissions shall be indicated, reference shall be made to the pages of the typewritten transcript, and the names of witnesses shall be indexed. The responding party shall similarly print such additional portions of the record as it is desired the court shall read. The courts of the United States may by rule amplify or modify the provisions of this section to further its purpose.

SECTION 311. *Mistake of remedy not to preclude judicial review.*—When, in a case pending in any United States court to review an order or determination of an agency, the order or determination is subject to judicial review, but by a procedure or before a court different from that chosen by the person seeking review, the court may, instead of denying relief, take one or more of the following courses of action, on such conditions as it may deem just—

(a) Proceed, if it has jurisdiction, as if the proper remedy had been sought; or permit or direct such amendment, rehearing, or remand to a lower court as it deems appropriate for a proper review of the order; or

(b) Permit transfer of the case to a court having jurisdiction to review the order.

SECTION 312. *Time of taking effect.*—Sections 310, 311, and 313 of this title shall take effect at once. The remaining sections of this title shall take effect on January first, 1942, or in any particular agency at any prior date upon order thereof, when such agency shall conclude that available personnel and appropriations permit such provisions, or any portion thereof, to become operative.

SECTION 313. *Rules and regulations.*—Each agency shall have authority from time to time to make, amend, and rescind such rules and regulations as may be necessary to carry out the provisions of this title.

#### TITLE IV—DECLARATORY RULINGS

SECTION 401. *Power to issue rulings.*—Each agency tribunal shall have power to issue declaratory rulings concerning rights, status, and other legal relations arising under the statute or the several statutes committed to its administration or arising under its regulations, in order to terminate a controversy or remove an uncertainty. The agency tribunal may refuse to render or enter a declaratory ruling where such ruling if made would not terminate the uncertainty or controversy giving rise to the proceeding, or would itself be of uncertain future application, or is deemed to have been sought for the purpose of delay, or would impede the determination of other proceedings then pending, or, in the judgment of the agency tribunal, would be premature or otherwise inexpedient.

SECTION 402. *Effect.*—A declaratory ruling issued by an agency tribunal shall, in the absence of reversal after appropriate judicial proceedings, have the same force and effect, and be binding in the same manner, as a final order or other determination of that agency tribunal.

SECTION 403. *Parties.*—When a declaratory ruling is sought, all persons shall be made parties who have or claim any legal interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding.

SECTION 404. *Judicial review.*—Judicial review of a declaratory ruling made by an agency tribunal may be had in the manner and to the same extent as final orders or other determinations of that agency tribunal; except that this title shall not be deemed to modify existing provisions of law applicable to closing agreements concerning internal revenue tax matters. Refusal of a request that a declaratory ruling be made shall not be subject to review in any manner.